

In The Matter Of:
United States vs.
PFC Bradley E. Manning

Vol. 38
August 20, 2013
UNOFFICIAL DRAFT 08/20/13 Morning/Afternoon Session

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VOLUME XXXVIII
IN THE UNITED STATES ARMY

UNITED STATES
VS.
MANNING, Bradley E., Pfc. COURT-MARTIAL
U.S. Army, xxx-xx-9504
Headquarters and Headquarters Company,
U.S. Army Garrison,
Joint Base Myer-Henderson Hall,
Fort Myer, VA 22211
_____ /

The Hearing in the above-entitled matter
was held on Tuesday, August 20, 2013, commencing at 9:30
a.m., at Fort Meade, Maryland, before the Honorable
Colonel Denise Lind, Judge.

DISCLAIMER

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1 **APPEARANCES:**

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3 **ON BEHALF OF THE GOVERNMENT:**

4 **MAJOR ASHDEN FEIN**

5 **CAPTAIN ANGEL OVERGAARD**

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7 **ON BEHALF OF THE ACCUSED:**

8 **DAVID COOMBS**

9 **CAPTAIN JOSHUA TOOMAN**

10 **MAJOR THOMAS HURLEY**

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PROCEEDINGS

M O R N I N G S E S S I O N

THE COURT: Please be seated. The court is called to order. Major Fein, please account for the parties.

MAJOR FEIN: All parties in the courtroom as last session with the exception of Major Hurley is absent and Captain (INAUDIBLE) is absent. There are 21 members of the media at the media operations center, one stenographer, and three members of the media in the courtroom sitting in the panel box and seven spectators in the courtroom, and there are no spectators in the trailer, although it will remain available throughout the day.

THE COURT: All right.

Yesterday I asked the parties to calculate the number of days of pre-trial confinement and Article 13 in addition to the 112 days of Article 13 that PFC Manning had been due. I also had my assistant calculate that as well and came up with 129 days as of today. Is that the

1 Party's understanding?

2 MR. COOMBS: Yes, Your Honor.

3 MAJOR FEIN: Yes, ma'am.

4 THE COURT: I also received, via e-mail, an
5 authentication plan for the transcript from the
6 government. I believe the defense has viewed it; is
7 that correct?

8 MR. COOMBS: Yes, Your Honor.

9 THE COURT: That's been marked as a
10 Appellate Exhibit 665. Does the government have
11 anything to add for the record?

12 MAJOR FEIN: No, ma'am. That has been
13 marked as Appellate Exhibit 665 and also Appellate
14 Exhibit 664 is the defense's PowerPoint that was used
15 during the sentencing.

16 THE COURT: The Court has looked over
17 Appellate 665 and what it basically does, there's a lot
18 of pages in the transcript that will have to be
19 authenticated by the parties and the Court, and this a
20 Appellate Exhibit 665 basically establishes a procedure
21 for this to be done expeditiously.

1 MAJOR FEIN: There's one (INAUDIBLE) that
2 the plan has and that is the portion of closed sessions
3 that takes the highest priority and then the parties
4 (INAUDIBLE) the beginning. The first goes back to
5 February 2012 and moves forward after the closed
6 sessions. So those could be reviewed after
7 clarifications.

8 THE COURT: Is there anything else we need
9 to address with respect to the authentication plan?

10 MR. COOMBS: No, Your Honor.

11 MAJOR FEIN: No, ma'am .

12 THE COURT: I also have a draft omnibus
13 seal order which I asked the government to do
14 yesterday in the afternoon and the evening. I went
15 through it with the court reporter, paralegals, all
16 of the exhibits that have been entered into in this
17 case, appellate exhibits, prosecution exhibits, and
18 defense exhibits to make sure they were there, and,
19 two, to see what has been proposed for sealing and
20 why, and we have a couple of outstanding issues with
21 respect to a couple of exhibits. The government's

1 going to get back to me on those.

2 I think the defense signed a few of the
3 exhibits that didn't have an actual signature on
4 them and I believe that's all been taken care of,
5 right?

6 MR. COOMBS: That's correct, Your Honor.

7 THE COURT: Any other issues with respect
8 to the proposed seal order? Defense, have you seen it?

9 MR. COOMBS: We have, Your Honor.

10 MAJOR FEIN: No, ma'am.

11 THE COURT: Is there anything else that we
12 need to address before I close the Court for
13 deliberations?

14 MR. COOMBS: No, Your Honor.

15 MAJOR FEIN: Just the plan for today,
16 ma'am.

17 THE COURT: The Court will close for
18 deliberations and will reopen the Court at 12:00. At
19 that point I will advise whether I need further
20 deliberation. If so, I'll go back on the record at
21 1400 and the parties and I have scheduled a RCM802

1 conference at 4:00 to discuss the outstanding issues
2 with respect to the sealed order.

3 So that the point we'll have further
4 clarification on how things will go. I will not
5 announce the sentence today. I will do that
6 tomorrow morning unless I need further time for
7 deliberation. The earliest I will announce it is
8 tomorrow morning.

9 Anything else I need to address?

10 MAJOR FEIN: No, ma'am.

11 MR. COOMBS: No, Your Honor.

12 THE COURT: The Court is in recess until
13 12:00.

14 (Hearing recessed at 9:40 a.m.)

15 PROCEEDINGS

16 A F T E R N O O N S E S S I O N

17 (Hearing resumed at 12:00 p.m.)

18 THE COURT: Be seated.

19 THE WITNESS: The Court is in session. All
20 parties that were present when the court last recessed
21 are again in court with the exception of Major Fein at

1 the government table and Captain Morrow is now for the
2 government.

3 Is there anything we need to address
4 before I recess the court?

5 MR. COOMBS: No, Your Honor.

6 CAPTAIN MORROW: No, Your Honor.

7 THE COURT: Once again, I am going to
8 recess until 1400 or 2:00. I'm going to be continuing
9 my deliberations at that point. I will be ready to
10 announce the sentence tomorrow.

11 How much time does the government need
12 to prepare for that?

13 CAPTAIN MORROW: 10:00 a.m. is fine, ma'am.

14 THE COURT: So at 10:00 a.m. tomorrow I
15 will announce the sentence, but I will be going back to
16 deliberate further at 1400 today, and I am meeting with
17 the parties at 1600 or 4:00. At that point we'll meet
18 once again, open the Court, recess the Court, meet with
19 the parties, and if I need any further deliberations.
20 I'll deliberate into the evening.

21 I would like to see both sides, counsel,

1 for just a few moments to talk about the sole issue,
2 and the Court is in recess until 1400.

3 (Hearing resumed at 2:00 p.m.)

4 (Judge on the bench but there is no volume).

5 THE COURT: Pursuant to the Court at the
6 conclusion of the trial. Does the defense have any
7 objection to that or would you rather address it at
8 1600?

9 MR. COOMBS: If we could address it at
10 1600.

11 THE COURT: Government please be prepared
12 to address that as well.

13 CAPTAIN MORROW: Yes, ma'am.

14 THE COURT: Is there anything else we need
15 to address at this time before I close the Court again?

16 MR. COOMBS: No, ma'am.

17 CAPTAIN MORROW: No, ma'am.

18 (Hearing recessed at 2:05 p.m.)

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